

## **complaint**

Mr and Mrs K complain about the advice they received from Gregory Pennington Limited ("GPL") in relation to their debt management plan.

## **background**

Mr and Mrs K say they had a debt management plan ("DMP") with GPL between 2004 and 2012. They say they asked about an individual voluntary arrangement ("IVA") as an alternative means of paying their debts and were told they didn't have enough disposable income. And they say they specifically asked about the possibility of an IVA only in Mrs K's name, but were told it would have to be in both of their names.

Mr and Mrs K also say they were later advised by a different business that Mrs K could enter into an IVA on her own and this took place in 2016. So, they say they think they were wrongly advised about this matter by GPL.

GPL says it would only refer someone for an IVA where it's satisfied the proposal has a real prospect of being accepted by the creditors. It says an IVA was identified as a possible alternative to Mr and Mrs K's DMP on a number of occasions. But it says this was, however, ruled out as they were either unable to afford the minimum payment requirement at the time or it wasn't suitable, due to a potential short-term change in their personal circumstances.

GPL also says the DMP was initially set up solely in Mr K's name in October 2004 when he had debts estimated at £39,200. It says Mrs K was added to the DMP in August 2005, when she had debts of over £56,000. And it says Mr and Mrs K completed a breakdown of their income and expenditure which showed their disposable income at the time was £90 per month.

In addition, GPL says the possibility of an IVA was first discussed in 2007. It says notes from a call in August 2007 indicate this wasn't an option because they couldn't afford the IVA payments. It says there was a discussion around re-mortgaging to clear some debt and then going for an IVA with the remainder. It says the following day Mr and Mrs K advised they wished to remain on the DMP. It says an IVA was also discussed with Mr and Mrs K on several occasions in 2009. And it says they were advised they would be unable to make the payments required.

GPL further says the possibility of Mrs K going on to an IVA on her own was discussed in July 2009. It says based on her debt level of around £80,000 the payment needed would've been in the region of £530 per month and it would also have been necessary to take into account the impact the instability of their joint income would've had on the IVA.

So, GPL says it doesn't agree it gave any inaccurate advice to Mr and Mrs K about this matter.

Our investigator thought Mr and Mrs K's complaint shouldn't be upheld.

Mr and Mrs K disagreed with the investigator's conclusions.

They said from what they remember from many conversations with GPL they were told if an IVA were to be considered, it would require a monthly payment of £200 and that was based on a joint IVA for all their debt. They said at no point was there any mention that a higher

figure would be required. They said they weren't given a reason why an IVA in Mrs K's name alone wasn't possible. And they said based on a payment of £200 per month for a joint IVA, then this should mean a payment of around £100 per month for an IVA in Mrs K's sole name.

Mr and Mrs K also said they were given wrong advice by GPL and the main reason was because it was in GPL's interests to continue receiving commission from them.

So, the matter's been referred to me to make a final decision.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've decided not to uphold Mr and Mrs K's complaint and I'll explain why.

At Mr and Mrs K's request I've checked whether GPL has any recordings of its phone calls with them. It's confirmed that, due to the passage of time, it doesn't.

However, from the information I've seen, including GPL's system notes, I can see that the possibility of an IVA, either in the joint names of Mr and Mrs K or individually, was considered by GPL and discussed on several occasions during the time they had a DMP with it.

I've reviewed the income and expenditure assessments that GPL carried out and I've considered the disposable income Mr and Mrs K had during the years when it was managing their DMP. And these indicate their joint disposable income was well short of the monthly payments that would've been needed for an IVA to be a realistic possibility, either jointly or individually.

I acknowledge Mrs K was able to enter into an IVA in her sole name in 2016. But that will have been based on Mr and Mrs K's circumstances at the time. And it doesn't mean this would've been a viable option at any point when they had a joint DMP managed by GPL.

Mr and Mrs K clearly feel strongly about this matter and I've sympathy for them. But, for the reasons I've explained, I don't think GPL's done anything wrong and this means I can't fairly and reasonably uphold their complaint.

### **my final decision**

I don't uphold Mr and Mrs K's complaint against Gregory Pennington Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs K to accept or reject my decision before 7 March 2019.

Robert Collinson  
**ombudsman**